

MINUTES FOR BOARD MEETING OF THE NEVADA STATE BOARD OF ARCHITECTURE, INTERIOR DESIGN AND RESIDENTIAL DESIGN
August 16, 2011
Board Conference Room, 2080 E. Flamingo Rd., Suite 120, Las Vegas, NV 89119

Tuesday, August 16, 2011

Acting Chairman Greg Erny called the meeting to order at 8:30 a.m.

Roll Call: Greg Erny, Kimberly Ciesynski, George Garlock, John Klai, JoAnn Oppenheimer, and Sean Tanner. Bill Snyder was excused and Larry Tindall was absent. Larry Henry arrived at 11:15 am.

Also in attendance: Gina Spaulding, Executive Director; Louis Ling, Legal Counsel; Betty Ruark, Chief Investigator; Laura Bach, Investigator; Monica Harrison, Tammy Bond, Staff.

AGENDA ITEM 1 Public Comment

There was no public comment.

AGENDA ITEM 2 Approval of Consent Agenda

Consent agenda included the following:

- A. Approval of Agenda
- B. Approval of Minutes: June 15, 2011
- C. Secretary/Treasurer Report
 - 1. Nevada Architect, Registered Interior Designer and Residential Designer Licensing Statistics
 - 2. Bank of America, Wells Fargo and Smith Barney monthly/quarterly statements and June 2011 Quarterly Report
- D. Ratification of Reciprocal Licenses (see attached list)
- E. Firm Name Approval Requests
 - 1. Allen W. Johnson & Assoc., Inc.
 - 2. Brazen Architecture, Inc.
 - 3. Cebolla Architecture
 - 4. HGTS Services, LLC
 - 5. Michael S. Andersen AIA Architect, LLC
 - 6. MBA Architecture & Interior Design
 - 7. Planmark Inc.
 - 8. Christian Von Eckartsberg Architect, P.C.

Architects: Registration by reciprocity

6688	Travis D. Lange	6700	Ronald W. Kretz
6689	Peter Pasco	6701	Timothy W. Miller
6690	Michael Ryan Francis	6702	Richard J. Mitchell
6691	Thomas Sieniewicz	6703	Amy L. Morton
6692	Michelle M. Jones	6704	David G. Welsh
6693	John D. Knapp	6705	Hans R. Baldauf
6694	Michael Ratliff	6706	Brian D. Junge
6695	Adam D. Winig	6707	Steven D. Hillier
6696	Todd G. Mather	6708	Patrick E. MacLeamy
6697	Ryan P. Mackowiak	6709	Scott A. Sanders
6698	Curtis N. Miner	6710	Ronald Barr
6699	Stephen C. Jordan		

Residential Designers: Registration by reciprocity

311-P Norbert L. Lohse

Board members requested agenda items 2E-2 and 2E-5 be pulled from the consent agenda.

Motion: Klai moved to approve the consent agenda, items 1 through 2E-1 and 2E-3, 2E-4, and 2E-6 through 2E-8. Motion seconded by Garlock.

Vote: All in favor. Motion passes.

AGENDA ITEM 2E-2 Firm name approval request: Brazen Architecture, Inc.

Motion: Klai moved to approve the firm name request for “Brazen Architecture, Inc.” Motion seconded by Garlock.

Erny expressed concern that the proposed firm name is a qualitative descriptor and that it has a subjective connotation. Spaulding explained that this should only be an issue if the proposed firm name was false or misleading to the public.

Vote: Ciesynski, Garlock, Klai, Oppenheimer Gore, and Tanner in favor. Erny opposed. Motion passes.

AGENDA ITEM 2E-5 Firm name approval request: Michael S. Anderson AIA Architect, LLC

Motion: Garlock moved to approve the firm name request for “Michael S. Anderson AIA Architect, LLC.” Motion seconded by Tanner.

Erny asked if Michael S. Anderson is still affiliated with SCA Design, LLC and Spaulding confirmed that he is not.

Vote: All in favor. Motion passes.

AGENDA ITEM 3 Deliberations/Action on applications for registration: Architectural

Garlock swore in the following individuals as architects:

- 1. Catherine Reyes..... 6711
- 2. Philip J. Stewart..... 6712

Motion: Klai moved to approve the registration of the above referenced individuals as architects. Motion seconded by Oppenheimer Gore.

Vote: All in favor. Motion passes.

Erny asked the new registrants if they had any comments or questions regarding the registration process. Comments were made regarding the ease of licensing in Nevada and the great service provided by staff throughout the process. One of the new registrants commented on NCARB and how they have become more responsive.

AGENDA ITEM 4A-1 Case No. 11-028N – In the matter of Stephen Jensen and Blue Sky Animal Care Architecture

Motion: Klai moved to approve the settlement agreement. Motion seconded by Garlock.

The Respondent is alleged to have violated NRS 623.182 and NRS 623.360.1 (a) and (b) by holding himself out as being qualified to practice architecture for a project in Nevada without having been issued a certificate of registration from the Board.

The Respondent received a copy of a Request for Qualifications from the P/C Coordinator at the Carson City Purchasing and Contracts Department. The RFQ was for architectural services for an Animal Services Facility project in Carson City. The Respondent responded to the request and submitted a Statement of Qualifications without obtaining a temporary or permanent certificate of registration from the Board.

The Respondent was sent a Notice of Charges concerning this project and a letter of response was received. The decision was made to offer the Respondent an opportunity to settle this matter informally rather than face a disciplinary hearing before the Board. A settlement agreement was negotiated incorporating a Guilt Clause, Effect on Licensure clause and an Administrative Penalty of \$2,500 plus Investigative Costs in the amount of \$1,500. Staff recommends approval of the settlement agreement.

Vote: All in favor. Motion passes.

AGENDA ITEM 4A-2 Case No. 10-026N – In the matter of Brian Wolfe and Green Valley Design

Motion: Klai moved to approve the settlement agreement. Motion seconded by Tanner.

The Respondent is alleged to have violated NRS 623.360.1 (a) and (b) by holding himself out as being qualified to practice architecture in Nevada without having been issued a certificate of registration from the Board.

Information was received from an anonymous source which revealed that the Respondent was holding himself out as an Architectural Consultant and offering interior space planning and design services through business cards. Further investigation revealed the Respondent was also holding himself out as being qualified to practice architecture in Nevada through various types of media including but not limited to his “Green Valley Design” website, One Architecture website, Facebook page and LinkedIn page.

The Respondent was sent a Notice of Charges concerning this project and a letter of response was received. The decision was made to offer the Respondent an opportunity to settle this matter informally rather than face a disciplinary hearing before the Board. A settlement agreement was negotiated incorporating a Guilt Clause, Effect on Licensure clause and an Administrative Penalty of \$2,500 plus Investigative Costs in the amount of \$1,600. Staff recommends approval of the settlement agreement.

Garlock directed enforcement staff to investigate One Architecture for additional possible violations.

Vote: All in favor. Motion passes.

AGENDA ITEM 4B Discussion and possible decision regarding closure of enforcement cases

Ruark recommended the following cases, which were investigated, for closure without disciplinary action:

07-030N	09-016N	09-021N	10-003N	10-017N
10-020N	10-033N	10-038N	10-039N	11-004R
11-018R	11-029N			

Motion: Tanner moved to close the above-referenced cases. Motion seconded by Oppenheimer Gore.

Vote: Garlock recused himself. All others in favor. Motion passes.

AGENDA ITEM 4C Enforcement report

There was no report.

AGENDA ITEM 5 Board review and decision regarding implementation of SB 268, including draft regulations, draft certificate of eligibility forms. Set tentative workshop and public hearing dates for regulations.

Spaulding addressed the board regarding SB 268 (2011 Legislative session), which was recently signed into law by the Governor. The Board reviewed and approved draft regulations to provide certificates of eligibility for design professionals that compete for public works projects. The Board also reviewed and revised the draft applications for the certificates of eligibility. The language the board deleted from the proposed regulation is delineated by a strike-through.

Add new section to NAC Chapter 623 for certificates of eligibility pursuant to SB268 of the 2011 Legislative Session:

NAC 623._____ “Affidavit for a certificate of eligibility” defined. (NRS 338._____, 623.140) “Affidavit for a certificate of eligibility” means an affidavit from a certified public accountant required pursuant to [NRS 338._____](#).

NAC 623._____ “Affidavit for renewal of a certificate of eligibility” defined. (NRS 338._____, 623.140) “Affidavit for renewal of a certificate of eligibility” means an affidavit from a certified public accountant required pursuant to NRS 338._____.

NAC 623._____ “Certificate of eligibility” defined. (NRS 338._____, 623.140) “Certificate of eligibility” means a certificate of eligibility to receive a design professional preference on public works issued by the Board pursuant to NRS 338._____.

NAC 623._____ “Statement of compliance” defined. (NRS 338._____, 623.140) “Statement of compliance” means a statement from an architect who applies for a certificate of eligibility which states that the architect is properly licensed pursuant to the provisions of [chapter 623](#) of NRS for the certificate of eligibility for which he or she is applying.

NAC 623._____ Prerequisites. (NRS 338._____, 623.140)

1. An architect who wishes to obtain a certificate of eligibility must submit to the Board:
 - (a) An application on a form provided by the Board;
 - (b) A notarized affidavit for a certificate of eligibility on a form provided by the Board;
 - (c) A notarized statement of compliance on a form provided by the Board;
 - (d) The fee set forth in [NAC 623.290](#); and

(e) Any other documentation required by the Board.

NAC 623._____ Application; review of banking records. (NRS 338._____, 623.140)

1. An application for a certificate of eligibility must include, without limitation:

- (a) The name of the applicant;
- (b) The certificate of registration number of the applicant;
- ~~(c) The date of issuance of the certificate of registration of the applicant;~~
- (d) The mailing ~~and physical~~ address of the applicant;
- (e) The telephone number of the applicant;
- (f) The signature of the applicant; and
- (g) Any other information that the Board may require.

2. A certified public accountant shall review and certify on an affidavit provided by the board pursuant to Section 2 of SB 268 of the 2011 Legislative Session. ~~examine any necessary banking records in accordance with generally accepted auditing standards, including, without limitation, bank statements, cancelled checks, electronic transfers, cash distribution records and any other records that the Board deems appropriate, to substantiate an affidavit for a certificate of eligibility.~~

NAC 623._____ Issuance or denial. (NRS 338._____, 623.140) The Board or a person otherwise authorized by the Board will issue or deny a certificate of eligibility within a reasonable time after the date on which the Board receives the application, all required documentation that supports the application and the fee set forth in [NAC 623.290](#).

NAC 623._____ Contents of certificate. (NRS 338._____, 623.140) The certificate of eligibility must include, without limitation:

- 1. The date of issuance;
- 2. The date of expiration;
- 3. The name and the certificate of registration number of the registered architect; and
- 4. Such other information that the Board deems appropriate.

NAC 623._____ Issuance of duplicate certificate. (NRS 338._____, 623.140) The Board will issue a duplicate certificate of eligibility to any architect who has received a certificate of eligibility and who certifies that his or her certificate of eligibility has been lost or destroyed.

NAC 623._____ Affidavit for renewal. (NRS 338._____, 623.140) An affidavit for renewal of a certificate of eligibility must be on a form provided by the Board and must be notarized.

NAC 623._____ Issuance of certificate prohibited if certificate of registration not active; revocation; reapplication. (NRS 338._____, 623.140) The Board will not issue a certificate of eligibility to an architect whose certificate of registration is not in active status. If the architect whose certificate of registration is not in active status has received a certificate of eligibility, the Board will revoke the certificate of eligibility. Such an architect must reapply for a certificate of eligibility pursuant to [NRS 338._____](#).

NAC 623._____ Disciplinary action. (NRS 338._____, 623.140)

1. If an architect who applies to the Board for a certificate of eligibility submits false or misleading information, submits an application which is incomplete or does not comply with this chapter or [chapter 338](#) or [623](#) of NRS, the Board may:

- (a) Deny the application;
- (b) If the architect has received a certificate of eligibility, revoke the certificate of eligibility; or
- (c) Take such actions that the Board deems appropriate under the circumstances.

2. In carrying out the provisions of this section, the Board may rely on information contained in the records maintained by the Board and need not conduct any investigation, inquiry or hearing regarding the information contained in those records.

NAC 623._____ Written objection filed with public body. (NRS 338._____, 623.140) If a written objection is filed with a public body pursuant to [NRS 338._____](#), the Board or person otherwise authorized by the board will, upon request by the public body, provide to the public body a copy of the application of the architect against whom the complaint was made and any documentation submitted with the application.

NAC 623._____ Notification to Board of determination by public body; revocation of certificate. (NRS 338._____, 623.140)

1. If a public body determines that a written objection is accompanied by the required proof or substantiating evidence pursuant to [NRS 338._____](#), the public body shall notify the Board in writing of the determination of the public body within 30 days after the date of its determination.

2. Upon receipt of the written documentation from the public body, the Board or a person otherwise authorized by the Board will immediately revoke the certificate of eligibility for the architect. No formal disciplinary hearing is required before revocation of the certificate of eligibility based upon the receipt of the documentation from the public body which received the proposal on a contract for the completion of a public work.

Board members expressed concern that an out of state firm might be able to circumvent the intent of SB 268 by buying out a local, small firm in order to receive a preference on public works projects. A lengthy discussion ensued regarding how to prevent this from happening. Ling told the board that he would draft language and send it to Spaulding to include in the draft regulations.

A workshop to hear comments from interested parties was scheduled for Wednesday, September 28 at 12:00 pm in the board office conference room. A public hearing was scheduled for Thursday, September 29 at 12:00 pm in the board office conference room.

AGENDA ITEM 6 Board review and decision regarding request from Clark County for Board position regarding copying policy for design professional plans

Spaulding received a request from Clark County Building Department District Attorney, Clifford Jeffers. He asked for the board's position regarding a tentative policy on fair use exceptions requiring a customer to submit a written request for copies of copyrighted protected documents that indicates the intended use of the documents; e.g., comment at future public hearings, news reporting, nonprofit educational purposes, research, and other.

Board had no comment on this issue other than they did not see any need for amending the current policy as described in the email.

AGENDA ITEM 7 Executive director report

Spaulding said the next board meeting will be held on Tuesday, October 18 at the Sienna Hotel in Reno, NV.

Spaulding said that there are three board member appointments coming up this October. John Klai, Greg Erny, and George Garlock are up for reappointment. They all concurred that they would like to be considered for reappointment.

Spaulding said that renewals will be going out after the October board meeting and this will be our second year of reporting CEUs. Garlock asked whether Nevada recognizes carryovers. Spaulding verified that we do recognize structured carryovers with a maximum of four units. If registrants did not advise us on the last renewal they will not be able to claim any carryovers.

Spaulding reported that there are some staff changes being implemented. She will present further information at the next board meeting.

AGENDA ITEM 8 **Items for future agenda**

- Review of new CIDA standards and possible update of RID Substantially Equivalent application

AGENDA ITEM 9 **Formal Contested Administrative Hearing – In the matter of Dennis Eugene Rusk, Case Numbers 08-080R and 11-019R, consideration and adjudication of the Complaint alleging violations of NRS 623.270.1(c,d,f) and Rule of Conduct 1.1 as incorporated by NAC 623.900(1).**

Acting Chairman Larry Henry presided over the formal hearing against Dennis Rusk. A formal hearing was held in the matter of Dennis Eugene Rusk, Case Numbers 08-080R and 11-019R. The respondent was alleged to have violated NRS 623.270(1)(c), NRS 623.270(1)(f) and Rule of Conduct 1.1 as incorporated by NAC 623.900(1) by not applying the technical knowledge and expertise that is normally applied by architects practicing in Nevada; NRS 623.270(5)(b)(1) and NRS 623.270(5)(c)(1) by submitting incomplete drawings that did not meet the minimum standards; NRS 623.270(1)(d), 623.270(1)(f) and Rule of Conduct 1.1 as incorporated by NAC 623.900(1) by stamping architectural and structural plans for which he was not in responsible control of and by allowing the submittal of substandard plans with his stamp. All violations are alleged on two separate projects.

In attendance:

Louis Ling, Board Prosecutor
Sophia Long, Deputy Attorney General, Board Counsel

Witnesses for the prosecution:

Don White, Architectural Plans Examiner, City of Las Vegas Building Department
William Amor, Expert Witness
Darren Dunckel, President of and Marketing Manager for the Verge
Laura Bach, NSBAIDRD Investigator

Witnesses for the defense:

Dennis Rusk, Defendant
Dr. Robert Fielden, Expert Witness
David Dupont, Geotechnical Engineer

Garlock recused himself from the proceedings.

The counts brought against Dennis Rusk are as follows:

The Verge Project

By not applying the technical knowledge and expertise that is normally applied by architects practicing in Nevada, respondent has violated NRS 623.270(1)(c), NRS 623.270(1)(f) and Rule of Conduct 1.1 as incorporated by NAC 623.900(1).

Testimony was heard and evidence was introduced into the record, which substantiated the allegations against Respondent Dennis Rusk.

Motion: Erny moved that the State find Rusk guilty on Count 1, violations of: NRS 623.270(1)(c), violations of negligence and incompetence, but not gross negligence, NRS 623.270(1)(f). By submitting incomplete drawings that did not meet the minimum standards, respondent has violated NRS 623.270(5)(b)(1) and NRS 623.270(5)(c)(1). Motion seconded by Tanner.

Vote: All in favor. Motion passes.

The Cutting Residence

By stamping architectural and structural plans for which he was not in responsible control of and by allowing the submittal of substandard plans with his stamp, respondent has violated NRS 623.270(1)(c), NRS 623.270(1)(d), NRS 623.270(1)(f) and Rule of Conduct 1.1 as incorporated by NAC 623.900(1).

Testimony was heard and evidence was introduced into the record, which substantiated the allegations against Respondent Dennis Rusk.

Motion: Erny moved that the State find Rusk guilty on Count 2, violations of: NRS 623.270(1)(c), NRS 623.270(1)(d), NRS 623.270(1)(f) and Rule of Conduct 1.1 as incorporated by NAC 623.900(1). Motion seconded by Klai.

Vote: All in favor. Motion passes.

AGENDA ITEM 10 Public comment

There was no public comment.

Acting Chairman Henry adjourned the meeting at 11:59 p.m.

Larry Henry, Secretary/Treasurer

Gina Spaulding, Executive Director